

1 **Kevin R. Martin, SBN 176853**  
kmartin@randicklaw.com  
2 **Patrick E. Guevara SBN 202727**  
pguevara@randicklaw.com  
3 **RANDICK O'DEA & TOOLIATOS, LLP**  
5000 Hopyard Road, Suite 400  
4 Pleasanton, California 94588  
Telephone (925) 460-3700  
5 Facsimile (925) 460-0969

6 Attorneys for Plaintiff Vallavista Corporation

7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 VALLAVISTA CORPORATION, a  
California corporation,

12 Plaintiff,

13 vs.

14 AMAZON.COM, INC., a Delaware  
15 corporation, TARGET  
CORPORATION, a Minnesota  
16 corporation, EBAGS, INC., a  
Colorado corporation, EMPORIUM  
17 LEATHER COMPANY, INC., a New  
Jersey corporation, doing business as  
18 ROYCE LEATHER, and FASHION  
HANDBAGS, INC., a Nevada  
19 corporation, doing business as BO  
BO BAGS,

20 Defendants.  
21  
22

Case No.: C07-05360 PVT

**JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT AND  
[PROPOSED] ORDER**

Date: February 5, 2008  
Time: 2:00 p.m.  
Courtroom: 5  
Judge: The Hon. Patricia V. Trumbull

23 Plaintiff Vallavista Corporation ("Plaintiff") and the defendants that have to date  
24 appeared in the action, Amazon.com, Inc., Target Corporation, and eBags ("Defendants"),  
25 submit this joint statement pursuant to L.R. 16-9.

26 1. Jurisdiction and Service. This Court has subject matter jurisdiction over this  
27 action pursuant to 15 U.S.C. § 1121 (actions arising under the Trademark Act of 1946), 28  
U.S.C. 1338(a) (acts of Congress relating to trademarks), and 28 U.S.C. 1338(b) (pendent unfair

1 competition claims). Defendant Emporium Leather has been served but has not yet filed an  
2 answer. Defendant Fashion Handbags, Inc. has not yet been served.

3 2. Facts:

4 *Plaintiff's Statement*

5 Plaintiff brings this action for trademark infringement, dilution, and false designation of  
6 origin under the Trademark Act of 1946 (also known as The Lanham Act, 15 U.S.C. § 1051 *et*  
7 *seq.*) and unfair competition under California Business & Professions Code Section 17200 *et seq.*  
8 and the common law based on the Defendants' use of the name and mark TAXI WALLET and  
9 other unlawful activities conducted by Defendants in connection with such use.

10 *Defendants' Statement*

11 These Defendants dispute the validity and enforceability of Plaintiff's claimed rights in  
12 the mark TAXI WALLET and Plaintiff's contention that Defendants have infringed upon any of  
13 those claimed rights. Defendants deny that TAXI WALLET is "famous" within the meaning of  
14 the dilution provisions of the Lanham Act, 15 U.S.C. § 1125(c). Defendants deny that their  
15 actions have been likely to result in consumer confusion, mistake or deception, and deny that  
16 their actions otherwise violate any right of Plaintiff.

17 3. Legal Issues:

18 Based on the joint conference between the parties, the principal legal issues are the  
19 overall strength and enforceability of Plaintiff's alleged marks and the likelihood that  
20 Defendants' action would have resulted in consumer confusion, mistake and/or deception.  
21 Additional legal issues include the applicability of the defenses of laches and waiver, genericness  
22 of Plaintiff's alleged mark, abandonment of Plaintiff's alleged marks, and the applicability of  
23 California Section 17200 to the alleged acts.

24 4. Motions: None pending at this time.

25 5. Amendment of Pleadings: Plaintiff may amend to pleading to dismiss with  
26 prejudice defendant(s). Defendants may amend pleadings to add a counterclaim for cancellation  
27 of Plaintiff's registered mark(s) or opposition to registration of Plaintiff's pending application.

28 6. Evidence Preservation: Since the inception of this lawsuit, all parties have taken

1 steps to properly preserve relevant evidence.

2 7. Disclosures: All parties intend to make timely and appropriate Rule 26(a)(1)  
3 disclosures.

4 8. Discovery: No discovery has been taken to date. The parties intend to make  
5 serious efforts at settling the case before engaging in full discovery. Key discovery for  
6 settlement purposes will be a report of defendants' respective sales using the designation "Taxi  
7 Wallet" and the enforceability of Plaintiffs' alleged marks.

8 9. Class Actions: Not applicable.

9 10. Related Cases: Not applicable.

10 11. Relief: Plaintiff seeks injunctive relief enjoining Defendants' continued use of  
11 the mark at issue, and damages associated with the alleged infringement. Defendants are  
12 unaware of any basis for an award of lost profits or other damages.

13 12. Settlement and ADR: All parties are amenable to mediation or assignment to  
14 magistrate for settlement conference. Key discovery elements will be a report of Defendants'  
15 respective sales using the designation "Taxi Wallet" mark and the enforceability of Plaintiff's  
16 alleged marks.

17 13. Consent to Magistrate Judge For All Purposes: Plaintiff does not consent to  
18 Magistrate Judge for all purposes.

19 14. Other References: As mentioned in paragraph 12 above, the parties believe this  
20 case is suitable for court-sponsored mediation.

21 15. Narrowing of Issues: None at this time.

22 16. Expedited Schedule: Not applicable.

23 17. Trial: Plaintiff has demanded a jury trial. The parties estimate the length of trial  
24 at 3 to 5 days.

25 ///

26 ///

27 ///

28 ///

18. Disclosure of Non-party Interested Entities or Persons: Defendant Target discloses Westport Corporation. No other non-party interested entities or persons are known at this time. The parties will file any supplemental disclosures as required.

Date: January 29, 2008

RANDICK O'DEA & TOOLIATOS, LLP

By: /s/  
Kevin R. Martin  
Attorneys for Plaintiff VALLAVISTA  
CORPORATION

Date: January 29, 2008

MORRISON & FOERSTER, LLP

By: /s/  
Angela L. Padilla  
Attorneys for Defendant TARGET  
CORPORATION

Date: January 29, 2008

COOLEY GODWARD KRONISH, LLP

By: /s/  
Andrew Hartman  
Attorneys for Defendant EBAGS, INC.

Date: January 29, 2008

STOEL RIVES, LLP

By: /s/  
Vanessa Power  
Attorneys for Defendant AMAZON.COM,  
INC.

**[PROPOSED] CASE MANAGEMENT CONFERENCE ORDER**

In compliance with FRCivP 16(b), having filed a Joint Case Management Conference Statement, the parties in this matter agree as follows:

1. Scheduling: The parties have discussed a tentative discovery and trial schedule including:

- 1 (a) Mediation or other ADR completed by end of March 2008;
- 2 (b) Plaintiff's expert reports by end of June 2008;
- 3 (c) Defendants' rebuttal experts and report by end of August 2008;
- 4 (d) Plaintiff's expert replies by end of October 2008;
- 5 (e) Dispositive motions filed by end of November 2008 to be heard in March 2009;
- 6 (f) Case tentatively ready for trial as of May 2009.

7 IT IS SO ORDERED:

8 Dated: January \_\_, 2008

9  
10 \_\_\_\_\_  
11 Patricia V. Trumbull  
12 United States Magistrate Judge  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28